

Kobert, S.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
VALDIVIA PRODUCE CORP.

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: 08 Civ. 8779 (JGK)  
DATE FILED: 1/30/09

08 Civ. 8779 (JGK)

Plaintiff,  
- against -

NUMERO UNO TROPICALES, INC.

**ORDER TO SHOW CAUSE  
FOR JUDGMENT BY  
DEFAULT**

Defendant.  
-----x

Upon the affidavits of Eric L. Cooper, sworn to 26<sup>th</sup> day of January, 2009, and upon the copy of the complaint hereto annexed, it is:

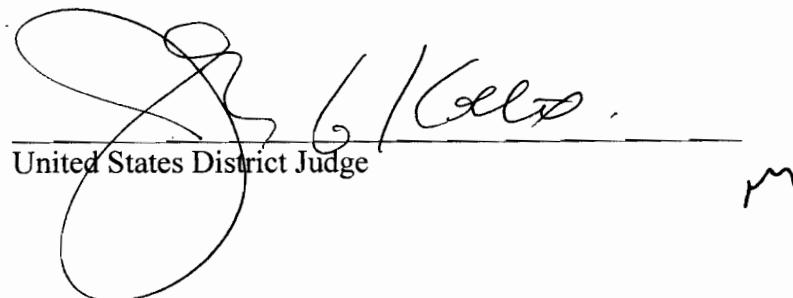
ORDERED, that the above named defendant show cause before a motion term of this Court, at Room 12B, United States Courthouse, 500 Pearl Street, in the City, County and State of New York, on February 13, 2009, at 2:30 o'clock in the afternoon thereof, or as soon thereafter as counsel may be heard, why an order should not be issued pursuant to Rule 55 and 56 of the Federal Rules of Civil Procedure entering a default judgment against the defendant; and it is further:

ORDERED that personal service of a copy of this order and annexed affidavit upon the defendant or his counsel on or before 5:00 o'clock in the afternoon on  
2/28/09, shall be deemed good and sufficient service thereof.

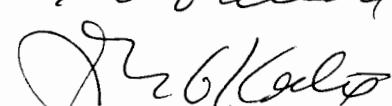
If the defendant fails to respond to this Order to Show Cause, a default judgment may be entered against the defendant in which event, the defendant will have no trial.

DATED: New York, New York  
January 26, 2009

ISSUED:

  
\_\_\_\_\_  
United States District Judge pm

The Plaintiff shall file  
proof of service of this Order &  
Show Cause by 2/11/09.

So ordered.  
  
1/26/09. U.S.D.J.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
VALDIVIA PRODUCE CORP.

Plaintiff,

08 Civ. 8779 (JGK)

- against -

NUMERO UNO TROPICALES, INC.

**AFFIDAVIT FOR  
JUDGMENT BY DEFAULT**

Defendant.  
-----x

STATE OF NEW YORK )  
                      )  
                      ) ss.:  
COUNTY OF NEW YORK )

Eric L. Cooper, being duly sworn, deposes and says:

1. I am a member of the Bar of this Court and am associated with the firm of CAMACHO MAURO MULHOLLAND, attorneys for plaintiff in the above-entitled action and I am familiar with all the facts and circumstances in this action.
2. I make this affidavit pursuant to Rule 55.1 and 55.2(a) of the Civil Rules for the Southern District of New York, in support of plaintiff's application for the entry of a default judgment against the defendant.
3. This is an action to recover money owed by defendant to plaintiff for purchase and shipping of perishable goods.
4. Jurisdiction of the subject matter of this action is based on the finding of the Department of Agriculture that the agreement between the parties fall under the jurisdiction of the Perishable Agricultural Commodities Act of 1930, 7 U.S.C. 499.

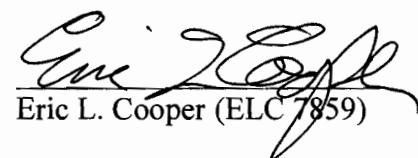
5. This action was commenced on October 14, 2008 by the filing of the summons and complaint. A copy of the summons and complaint was served on the defendant on October 31, 2008 by personal service on through the Secretary of State of New York, and proof of service by the Special Process Server was filed. See Exhibit "A" and "B" the Summons and Complaint and the affidavit of service. The defendant has not answered the complaint and the time for the defendant to answer the complaint has expired.

6. This action seeks judgment for the liquidated amount of damage awarded by the United States Secretary of Agriculture by decision dated April 25, 2008 for \$72,298.00 plus interest at 1.67 % per annum from June 1, 2006 , for a total as of January 1, 2009 of \$4,326.43, which is justly due and owing, and no part of which has been paid except as therein set forth.

7. The disbursements sought to be taxed have been made in this action or will necessarily be made herein.

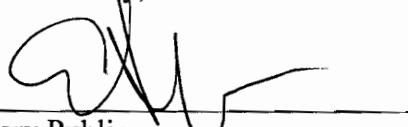
WHEREFORE, plaintiff requests the entry of Default and the entry of the annexed Judgment against defendant.

Dated: New York, New York  
January 26, 2009



Eric L. Cooper (ELC 7859)

Sworn to before me this 26th  
day of January, 2009



Notary Public

ERIC S. MALINOWSKI  
Notary Public, State of New York  
No. 02MA8172816  
Qualified in New York County  
Commission Expires Aug. 20, 2011

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
VALDIVIA PRODUCE CORP.

Plaintiff,

08 Civ. 8779 (JGK)

- against -

**CLERK'S CERTIFICATE**

NUMERO UNO TROPICALES, INC.

Defendant.

-----x

I, J. MICHAEL MCMAHON, Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on October 14, 2008 with the filing of a summons and complaint, a copy of the summons and complaint was served on defendant by serving the Secretary of State of New York, and proof of such service thereof was filed on 12/30/08.

I further certify that the docket entries indicate that the defendant has not filed an answer or otherwise moved with respect to the complaint herein. The default of the defendant is hereby noted.

Dated: New York, New York  
January 26, 2009

**J. MICHAEL MCMAHON**  
Clerk of the Court

By \_\_\_\_\_   
Deputy Clerk